

**IN THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN
DISTRICT OF WEST VIRGINIA AT CHARLESTON**

**PAMELA MAYHEW, BETSEY FARNSWORTH
on behalf of themselves and others
similarly situated,**

Plaintiffs,

v.

CIVIL ACTION NO. 2:17-cv-03844

**LOVED ONES IN HOME HEALTH CARE, LLC,
and DONNA SKEEN,**

Defendants.

**DEFENDANTS LOVED ONES IN HOME CARE, LLC AND
DONNA SKEEN'S
RESPONSE TO MOTION FOR FINAL *FLSA* CLASS
CERTIFICATION**

The Plaintiffs' motion for final certification is premature because there is no viable case that complies with the requirements of 29 U.S.C. §§216, 256 currently pending as 2:17-cv-3844. Case 2:17-cv-3844 is currently subject to a motion to dismiss, i.e. Document 237, which motion is now ripe for decision because it has been fully briefed.

Wherefore, Defendants pray that this Honorable Court grant the previously filed motion to dismiss (Document 237) and *per force* dismiss this Motion for Final *FLSA* certification.

Respectfully submitted,
Defendant, by counsel

/s/Richard Neely
Richard Neely (W. Va. State Bar # 2709)

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CERTIFICATE OF SERVICE

I, Richard Neely, do hereby certify that on the 16th day of December, 2018, I caused the foregoing Motion to Dismiss Plaintiffs' Motion for Class Certification for Failure to Have a Viable Underlying Case to be served upon the following counsel of record, namely:

Mark A. Toor, Esq.
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by filing said motion electronically with the Clerk of the U.S. District Court who will transmit the documents to counsel electronically using the CM/ECF filing system.

/s/Richard Neely